

### REMARKS

No amendments are made in this paper. Claims 1-20, 39, and 41-75 are canceled. Claims 21-38, 40, and 76-93 are pending and under consideration. The pending claims are currently rejected under 35 U.S.C. 103(a).

### INTERVIEW SUMMARY

Applicants respectfully thank the Examiner for the courtesy of a telephone interview with Margaret Brivanlou on June 13, 2007 to discuss both the instant application and co-pending US serial number 10/919,969, which claims priority from the instant application. In the interview, Examiner Marx indicated that the September 27, 2007 Rule 131 Declaration, which had been filed in both the instant application and serial number 10/919,969 to antedate the Davenport reference, was deficient because the Report provided as Exhibit 2 was not executed. The Examiner kindly suggested that a declaration providing a newly executed copy of the Report by its authors Akram (Adam) Sabouni and Mei-Fong King would overcome the rejection.

### REJECTION UNDER 35 U.S.C. § 103(a)

Claims 21-38, 40 and 75-93 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Davenport *et al.* (Pediatric Pulmonology, S13 Abstract 34, August 16, 1996) taken with Ubillas *et al.*, Masquelier, Wursch and Remington's Pharmaceutical Sciences and Applicants' admissions. Applicants note that claim 75 was previously canceled and is not pending.

In the "Response to Arguments," the Office Action states that

Applicant's declarations attempting to antedate the Davenport reference are defective in that the report # SP-303-E-074 is not executed.

Therefore the rejection is deemed proper and it is adhered to.

(see Office Action, June 15, 2007, page 4, lines 6-8). Applicants respectfully traverse the rejection on the basis that (1) execution of the report # SP-303-E-074 ("the Report") is not necessary in light of the inventors' statements within the declarations and (2) the evidence within the Report, for reasons set forth in the previous response dated March 27, 2007, is not necessary to establish that the invention was, in fact, made prior to the publication date of the Davenport reference.

However, Applicants have followed Examiner Marx's suggestion in the telephone interview of June 13, 2007 and provide herewith a copy of the Report #SP-303-E-074 that is "executed" by its authors Akram Sabouni and Mei-Fong King. Accordingly, Applicants attach herewith a "Declaration by Akram Sabouni and Mei-Fong King" executed on August 27, 2007 by Mei-Fong King, and on September 11, 2007, by Akram Sabouni. Consistent with the copy of the Report attached to the September 27, 2006 Rule 131 Declaration, the date of the Report is redacted. The attached "Declaration by Akram Sabouni and Mei-Fong King" establishes that "[a]lthough the dates were removed from the document, we confirm that we authored the report prior to August 16, 1996" (Declaration, page 2, paragraph 6). Akram Sabouni and Mei-Fong King also confirm "that the work reported in these Exhibits was carried out prior to August 16, 1996" (attached Declaration, page 3, paragraph 6). To confirm their authorship of the Report, Akram Sabouni and Mei-Fong King signed on September 11, 2007 and August 27, 2007, respectively, the copies of the Report attached to their Declaration as Exhibit B. In view of the statements by Akram Sabouni and Mei-Fong King in the attached "Declaration by Akram Sabouni and Mei-Fong King," and the copy of the executed Report #SP-303-E-074 provided

therewith, Applicants submit that they have addressed the deficiency of the September 27, 2006 Rule 131 Declaration raised by Examiner Marx and have, therefore, antedated the Davenport reference. Thus, Applicants respectfully request that the Davenport reference be withdrawn as prior art.

**Without Davenport, the remaining references do not render the claimed invention obvious**

As discussed in previous submissions, Applicants traverse the rejection over the combination of cited references. Davenport is not available as prior art, as discussed above. The remaining references fail to render the claimed invention obvious. The combination of the remaining references (Ubillas *et al.*, Masquelier, Wursch and Remington's Pharmaceutical Sciences and Applicants' admissions) has been discussed in detail in the previous responses. Applicants specifically refer to pages 11-12 of the submission of September 27, 2006, and page 8 of the submission of March 27, 2007, all of which are incorporated herein by reference. Applicants note that the Examiner has previously acknowledged that Applicants have overcome a rejection based on the combined references without Davenport (see the Office Action dated September 17, 2004). Accordingly, in view of the September 27, 2006 Rule 131 Declaration and arguments provided on March 27, 2007 and herein, Applicants request that the rejection be withdrawn.

**CONCLUSION**

Based on the foregoing remarks, Applicants respectfully request withdrawal of the rejection of claims and allowance of this application. Applicants believe that the remarks made herein and declaration provided herewith put the claims in condition for allowance.


**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Response to Deposit Account No. **50-3732**, Order No. 13784.105005. In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **50-3732**, Order No. 13784.105005.

Respectfully submitted,  
King & Spalding, LLP

Dated: September 17, 2007

By: \_\_\_\_\_

  
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